



UNITED STATES DEPARTMENT OF COMMERCE
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Patent Cooperation Treaty Legal Office #8

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SEP 8 1999

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In re Application of
GAISER et al
Application No.: 08/981,233
PCT No.: PCT/EP96/02633
Int. Filing Date: 18 June 1996
Priority Date: 19 June 1995
Attorney Docket No.: 2972-103P
For: PROCESS AND DEVICE FOR
CONTINUOUSLY DRYING...

NOTIFICATION OF
DEFECTIVE RESPONSE

This is a decision on applicants' "LETTER RESPONDING TO NOTIFICATION OF A DEFECTIVE DECLARATION/POWER OF ATTORNEY" filed in the Patent and Trademark Office (PTO) on 07 December 1998.

BACKGROUND

On 18 June 1996, applicants filed international application No. PCT/EP96/02633 which claimed a priority date of 19 June 1995, which designated the United States, and which named Peter Gaiser and Dieter Kowalczyk as inventor/applicants for the US.

On 17 January 1997, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application (unless previously communicated by the

International Bureau) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e. 19 December 1997.

On 19 December 1997, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and the surcharges for late filing of the declaration and translation.

On 02 April 1998, applicants filed, inter alia, a translation of the international application and a declaration of the inventors naming an additional inventor, Ulrich Plantikow.

On 06 November 1998, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was defective in that it contained non-initialed alterations and listed an additional inventor.

On 07 December 1998, applicants filed the present letter which requests that the application be accepted for entry into the national stage in the US under 35 U.S.C. 371. The letter was accompanied by, inter alia, a new declaration of the inventors which again lists Mr. Plantikow as an inventor.

DISCUSSION

Applicants urge in the present response that the originally filed declaration should have been found to be acceptable. Applicants argue that an additional inventor has not been entered, but rather the information for Mr. Kowalczyk has merely been moved and corrected. While this provides a satisfactory explanation of the non-initialed alteration to the declaration, it does not explain the addition of Mr. Plantikow as an inventor.

Therefore, in that applicants have not addressed the additionally named inventor on the declaration, the response is held to be defective and the request for entry into the national stage cannot be properly granted at this time.

CONCLUSION

For the reasons above, the request for entry into the national stage is DISMISSED without prejudice.

It is noted that the period for filing a proper response to the Form PCT/DO/EO/905 has expired. Therefore, applicants are hereby afforded a time limit of ONE (1) MONTH

from the mail date of this decision in order to file a proper response. Extensions of time under 37 CFR 1.136(a) are **NOT AVAILABLE**.

A proper response should include either (1) an acceptable showing that Mr. Plantikow was properly added as an inventor during the international stage in accordance with PCT Rule 92bis, (2) a proper petition under 37 CFR 1.48(a) adding Mr. Plantikow as an inventor, or (3) a new declaration naming only Mr. Gaiser and Mr. Kowalczyk as the inventors accompanied by an acceptable statement by Mr. Gaiser and Mr. Kowalczyk explaining their signature on multiple declarations naming Mr. Plantikow as an inventor.

Failure to timely file a proper response will result in abandonment of the application as of the expiration of the period for reply as set forth in the Form PCT/DO/EO/905.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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